

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 11/20/95 AND 12/01/95—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
FrontierVision Partners, L.P., Lee A. Bertman, C4 Media Cable Southeast, L.P. and County Cable Co., L.P.	96-0408	12/01/95
ITT Corporation, John Hancock Mutual Life Insurance Company, Russell Hotel Joint Venture Partnership	96-0427	12/01/95

FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay or Renee A. Horton,
Contact Representatives, Federal Trade
Commission, Premerger Notification
Office, Bureau of Competition, Room
303, Washington, DC 20580, (202) 326-
3100.

By Direction of the Commission.

Donald S. Clark,
Secretary.

[FR Doc. 95-30214 Filed 12-11-95; 8:45 am]

BILLING CODE 6750-01-M

[File No. 952-3391]

**The Dannon Company, Inc.; Consent
Agreement With Analysis To Aid
Public Comment**

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit the Tarrytown, NY-based frozen yogurt manufacturer from misrepresenting the fat, calories, saturated fat, or cholesterol in any of its frozen yogurt products. The consent agreement settles allegations stemming from nutritional claims made in advertisements for Dannon's line of Pure Indulgence frozen yogurt.

DATES: Comments must be received on or before February 12, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St., and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

Justin Dingfelder, Bureau of Consumer Protection, Federal Trade Commission, S-4631, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580, (202) 326-3017.

Peter Metrisko, Bureau of Consumer Protection, Federal Trade Commission, S-4624, 6th Street & Pennsylvania Ave., N.W., Washington, DC 20580, (202) 326-2104.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following

consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

United States of America Before
Federal Trade Commission

In the Matter of The Dannon Company, Inc., a corporation .

[File No. 952-3391.]

Agreement Containing Consent Order
To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of The Dannon Company, Inc., hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an Order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between The Dannon Company, Inc., by this duly authorized officer and attorneys, and counsel for the Federal Trade Commission, that:

1. Proposed respondent The Dannon Company, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 120 White Plains Road, Tarrytown, NY 10591.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

- a. Any further procedural steps;
- b. the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;
- c. all rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement; and
- d. any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the attached draft complaint, or that the facts as alleged in the attached draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 234 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (1) Issue its complaint corresponding in form and substance with the draft complaint attached hereto and its decision containing the following Order to cease and desist in disposition of the proceeding; and (2) make information public in respect thereto. When so entered, the Order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. Delivery by the Postal Service of the complaint and decision containing the agreed-to Order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the Order, and no agreement, understanding, representation, or interpretation not contained in the Order or the agreement

may be used to vary or contradict the terms of the Order.

7. Proposed respondent has read the proposed complaint and Order contemplated hereby. It understands that once the Order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the Order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the Order after it becomes final.

Order

I

It is ordered that respondent The Dannon Company, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any partnership, corporation, subsidiary, division or other device, in connection with the manufacture, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any frozen food product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, through numerical or descriptive terms or any other means, the existence or amount of fat, saturated fat, cholesterol or calories in any such product. If any representation covered by this Part either directly or by implication conveys any nutrient content claim defined (for purposes of labeling) by any regulation promulgated by the Food and Drug Administration, compliance with this Part shall be governed by the qualifying amount for such defined claim as set forth in that regulation.

II

Nothing in this Order shall prohibit respondent from making any representation that is specifically permitted in labeling for any such product in regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

III

It is further ordered that respondent, its successors and assigns, shall pay to the Federal Trade Commission, by cashier's check or certified check made payable to the U.S. Treasury and delivered to the Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 6th and Pennsylvania Ave., NW, Washington, DC 20580, the sum of \$150,000. Respondent shall make this

payment on or before the tenth day following the date of entry of this Order. In the event of any default on any obligation to make payment under this section, interest, computed pursuant to 28 U.S.C. 1961(a), shall accrue from the date of default to the date of payment.

IV

It is further ordered that, for three (3) years after the last date of dissemination of any representation covered by this Order, respondents, or its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

1. All labeling, packaging, advertisements and promotional materials setting forth any representation covered by this Order;
2. All materials that were relied upon to substantiate any representation covered by this Order; and
3. All test reports, studies, surveys, demonstrations or other evidence in its possession or control, that contradict, qualify, or call into question such representation or the basis upon which respondent relied for such representation, including complaints from consumers.

V

It is further ordered that respondent shall notify the Federal Trade Commission at least thirty (30) days prior to any proposed change in the respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

VI

It is further ordered that respondent shall, within thirty days after service of this Order, distribute a copy of this Order to each of its operating divisions, and to each of its officers, agents, representatives, or employees engaged in the preparation or placement of advertisements, promotional materials, product labels or other materials covered by this Order.

VII

It is further ordered that respondent shall, within sixty (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied or intends to comply with this Order.

VIII

It is further ordered that this order will terminate twenty years from the date of its issuance, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Benjamin I. Berman,
Acting Secretary.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from The Dannon Co., Inc., ("respondent" or "Dannon").

The proposed consent order has been placed on the public record for sixty (60) days for receipt of public comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns claims made by Dannon in its advertising for Pure Indulgence frozen yogurt.

The Commission's complaint in this matter charges Dannon with engaging in deceptive and unfair acts or practices in connection with the advertising of Pure Indulgence. The complaint alleges that respondents manufactured, advertised, offered for sale, sold or distributed a frozen yogurt sold under the name "Pure Indulgence," which it represented

was low in fat, low in calories, and lower in fat than ice cream. At the serving size for frozen yogurt commonly consumed, Pure Indulgence was not low in fat or low in calories. Further, Pure Indulgence was not lower in fat than many ice creams.

The Commission's complaint alleges that the above representations for certain flavors of Pure Indulgence, at the time the advertising was disseminated, were false and misleading.

The consent order contains provisions designed to remedy the violations charged and to prevent Dannon from engaging in similar deceptive and unfair acts in the future.

Part I of the Commission's order prohibits respondent, in connection with the manufacture, advertising, packaging, labeling, promotion, offering for sale, sale or distribution of any frozen food product, from misrepresenting, in any manner, directly or by implication, through numerical or descriptive terms or any other means, the existence or amount of fat, saturated fat, cholesterol or calories in any such product. However, if any representation covered by this Part either directly or by implication conveys any nutrient content claim defined (for purposes of labeling) by any regulation promulgated by the Food and Drug Administration, compliance with this Part shall be governed by the qualifying amount for such defined claim as set forth in that regulation.

Part II of the order provides that nothing in the order shall prohibit respondent from making any representation that is specifically permitted in labeling for any such product in regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

Under the terms of Part III of the order, respondents shall pay \$150,000.00 to the U.S. Treasury.

Part IV of the order requires Dannon to maintain copies of all materials relating to advertisements covered by the order and all documents relating to substantiation of advertising claims covered by the order.

Part V requires Dannon to notify the Commission of any changes in corporate structure that might affect compliance with the order.

Part VI requires Dannon to distribute copies of the order to certain company officials and employees and certain other representatives and agents of Dannon.

Part VII requires Dannon to file with the Commission a report detailing compliance with the order.

Part VIII provides for termination of the order twenty years from the date of issuance.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify any of their terms.

[FR Doc. 95-30215 Filed 12-11-95; 8:45 am]

BILLING CODE 6750-01-M

[File No. 942-3012]

Safe Brands Corporation, Warren Distribution, Inc. and ARCO Chemical Company; Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit Safe Brands, the manufacturer of Sierra antifreeze, Warren Distribution, its parent company, and ARCO, the supplier of the principal ingredient in Sierra antifreeze, from making unsubstantiated claims about the safety and environmental benefits of Sierra. They would also be required to put a statement on Sierra containers cautioning consumers that it may be harmful if swallowed. The Commission alleged that the companies had claimed, without adequate substantiation, that Sierra is absolutely safe for people and pets, that Sierra is generally safer for the environment than conventional antifreezes because it is biodegradable, and that Sierra and its container are recycled.

DATES: Comments must be received on or before February 12, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Joel Winston, Bureau of Consumer Protection, Federal Trade Commission, S-4002, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580 (202) 326-3153; Michael Dershowitz, Bureau of Consumer Protection, Federal Trade Commission, S-4002, 6th Street & Pennsylvania Ave., NW., Washington, DC 20580 (202) 326-3158.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's

Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

United States of America Before
Federal Trade Commission

In the Matter of Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation.

[File No. 942 3012]

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of proposed respondents Safe Brands Corporation, a corporation, Warren Distribution, Inc., a corporation, and ARCO Chemical Company, a corporation, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It is hereby agreed by and between Safe Brands Corporation, Warren Distribution, Inc., and ARCO Chemical Company, by their duly authorized officers, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Safe Brands Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska. It is a wholly-owned subsidiary of proposed respondent Warren Distribution, Inc. Proposed respondent Warren Distribution, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nebraska. Proposed respondents Safe Brands Corporation and Warren Distribution, Inc. have their principal offices or places of business at 727 South 13th Street, Omaha, Nebraska 68102.

Proposed respondent ARCO Chemical Company is a corporation organized, existing and doing business under and by virtue of the law of the State of Delaware with its principal office or place of business at 3801 West Chester Pike, Newtown Square, Pennsylvania 19073.